

## REMARKS

A review of the claims indicates that:

- A) Claims 2—28 and 30—53 remain in their original form.
- B) Claims 1 and 29 are currently amended.

In view of the following remarks, Applicant respectfully requests reconsideration of the rejected claims and withdrawal of the rejections.

## **Traversal of Rejection of Independent Claim 1**

Claims 1–12, 17–33 and 40–53 were rejected under §102(a) as being anticipated by Pawlak, “Software Update Service to Ease Patch Distribution,” hereinafter “Pawlak.” In response, the Applicant respectfully traverses the rejection.

**Claim 1** recites a processor-readable medium comprising processor-executable instructions for performing software updates, the processor-executable instructions comprising instructions for:

- **assigning a level of service to each of a plurality of users**, by which the software updates will be performed;
- scheduling performance of the software updates to a user from among the plurality of users **according to the level of service assigned to that user**; and
- performing the software updates according to the schedule.

Claim 1 has been amended only to clarify that a service level is assigned to a user, and not to substantively change the claim. Assignment of different service levels to different users are discussed at [0094] and other locations in the specification.

Claim 1 recites, “assigning a level of service to each of a plurality of users, by which the software updates will be performed”. The Applicant respectfully

1 submits that assignment of a level of service to each of a plurality of users is not  
2 shown or disclosed by the prior art of record.

3 Pawlak fails to disclose assignment of a level of service to users, i.e. client  
4 computers. Referring to Pawlak at pages 1 and 2 (as per the Examiner's hand-  
5 written page numbers) Pawlak discloses that organizations can adopt any of four  
6 "strategies" to software updating. The "Do Nothing" strategy, the "Manual"  
7 strategy, the "Allow end users to do it" strategy, and the "Use a software product"  
8 strategy. However, a review of each of these strategies fails to disclose aspects by  
9 which "a level of service" is assigned to each of a plurality of users. In fact, it  
10 appears that all users in the organization are similarly serviced, and that no  
11 distinction is made between different users with different levels of service.  
12 Accordingly, Pawlak does not disclose 'levels of service,' and does not disclose  
13 'scheduling of user's updates based on a level of service'.

14 The Patent Office points to page A5 (with "A5" as hand-written by the  
15 Examiner), and suggests that page A5 discloses assigning a level of service. The  
16 Applicant respectfully disagrees.

17 Referring to page A5, three "SUS Architectural Scenarios" are disclosed.  
18 Each scenario describes how an organization may be organized. For example, the  
19 organization may be small- or medium-sized (Scenario 1) or geographically  
20 dispersed (Scenario 2) or use a firewall (Scenario 3). However, none of the three  
21 scenarios discloses use different level of service assignments. In fact, it is not  
22 clear that, even between organizations associated with different scenarios,  
23 different levels of service are disclosed. In fact, in contrast to the different levels  
24 of service recited by Claim 1, *Pawlak discloses that each client is treated the*

1        *same*. In Scenario 1, “all client systems get approved packages” (quote from  
2 Scenario 1 of Pawlak. In Scenario 2, clients receive “all approved packages” from  
3 the parent (quote from Scenario 2 of Pawlak). In Scenario 3, “the clients get the  
4 list of approved packages” (quote from Scenario 3 of Pawlak). Thus, multiple  
5 levels of service are not assigned by the Pawlak reference.

6        Pawlak does not show or disclose scheduling updates based on level of  
7 service. The Patent Office suggests that pages A1 to A3 of Pawlak discloses  
8 scheduling updates based on level of service. The Applicant respectfully  
9 disagrees.

10       Referring to pages A1 to A3, Pawlak discloses software packages can have  
11 a “critical” priority level. (Other priority levels are not explicitly disclosed by  
12 Pawlak at A2 and A3.) However, the Applicant stresses that a level of service is  
13 assigned to each user, and is distinct from the “criticality” (or not) of any given  
14 software update. The level of service is a characteristic applied to the user, and  
15 the criticality of the software is a distinct concept and varies between software  
16 updates. Accordingly, Pawlak fails to disclose that each user is assigned a level of  
17 software service.

18       In view of the discussion above, the Applicant respectfully submits that, at  
19 a minimum, the Pawlak reference fails to show or disclose (1) assigning a level of  
20 service to each of a plurality of users, and (2) scheduling updates to a user from  
21 among the plurality of users according to the level of service assigned to that user.  
22 Therefore, the Applicant respectfully submits that Pawlak does not support the  
23 Section 102(a) rejection of Claim 1 and respectfully requests that the rejection be  
24 removed and the claim allowed to issue.

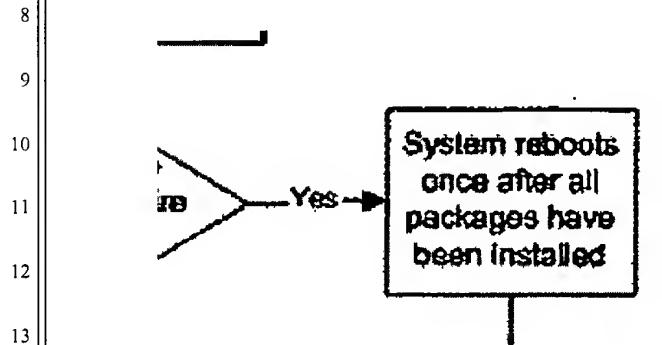
1       **Claims 2—28** depend from Claim 1 and are allowable due to their  
2 dependence from an allowable base claim. These claims are also allowable for  
3 their own recited features that, in combination with those recited in Claim 1, are  
4 not shown and not disclosed in references of record, either singly or in  
5 combination with one another.

6       **Claim 30** recites a processor-readable medium comprising processor-  
7 executable instructions for assisting a user to update software, the processor-  
8 executable instructions comprising instructions for:

- 9       • displaying an icon configured to allow a user a choice between  
10 displaying software reminders and initiation of installation of the  
11 software updates;
- 12       • wherein the software reminders include **information on grace**  
**periods within which installation of the software update may be**  
**postponed** and **information on the onset of enforcement periods**  
**after which installation of the software update may not be**  
**postponed**; and
- 13       • providing a user interface to allow selection of a time to perform the  
14 installation of the software update and **to allow selection of a time**  
**to reboot**.

15       Claim 30 recites, reminders of “information on grace periods within which  
16 installation of the software update may be postponed” and “information on the  
17 onset of enforcement periods after which installation of the software update may  
18 not be postponed”. The Applicant submits that Pawlak discloses only deferring  
19 installation, and fails to show or disclose the combination of reminders of a grace  
20 period followed by reminders of an enforcement period. Moreover, Pawlak fails  
21 to disclose a method wherein selection of a time to reboot is provided.  
22 Accordingly, the Applicant respectfully submits that Pawlak does not support the  
23 Section 102(a) rejection of Claim 30 and respectfully asks that the rejection be  
24 reboot.

1       Pawlak fails to disclose a method wherein selection of a time to reboot is  
2       provided. Pawlak discloses that the system reboots after all packages have been  
3       installed. (See below.) In view of this disclosed mode of operation, Pawlak does  
4       not disclose a user interface to allow selection of a time to withdraw.  
5       Accordingly, the Applicant respectfully submits that Pawlak is deficient to support  
6       a Section 102 rejection of Claim 30, and the Applicant respectfully requests that  
7       the rejection be withdrawn and the claim allowed to issue.

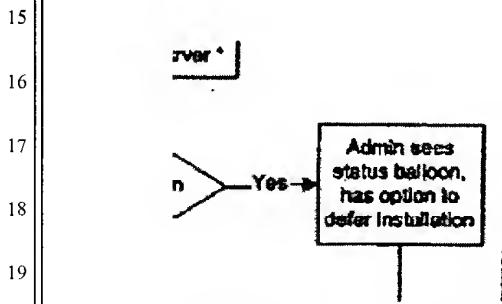


8         
9         
10      Pawlak fails to disclose a method wherein a user is provided with reminders  
11      for both a grace period and an enforcement period. The Pawlak reference (bottom  
12      of page 3) discusses a “grace period” wherein a local user with administrative  
13      privileges can defer installation of update packages. Please note that the grace  
14      period appears to be open-ended, in that a follow-up enforcement period is not  
15      disclosed. Additionally, the Pawlak reference (top of page 4) discloses that a user  
16      without administrative privileges cannot defer installation. This is roughly  
17      analogous to an “enforcement period.” Thus, Pawlak discloses that Admin users  
18      get a grace period, while non-Admin users get an enforcement period. However,  
19      Pawlak fails to show or disclose a system and/or method wherein a user is first  
20      presented with a grace period, and then after expiration of the grace period, is  
21        
22        
23        
24        
25

1 presented with an enforcement period. Accordingly, the Pawlak reference fails to  
2 show or disclose presenting any user with a grace period during which updates  
3 may be delayed, followed by presenting the user with an enforcement period  
4 during which updates may not be delayed.

5 The Patent Office suggests that Appendix A1 attached to the Pawlak  
6 reference disclose the grace period followed by the enforcement period. The  
7 Applicant respectfully disagrees.

8 Referring to Appendix 1, Pawlak provides that there is an option available  
9 to “an Admin” to “defer” the installation. (See the relevant portion of Pawlak  
10 pasted below.) However, Pawlak does not provide an “enforcement period,” that  
11 follows the “grace period,” that removes the option to defer. That is, the Pawlak  
12 grace period is open-ended and not followed by an enforcement period.  
13 Accordingly, Appendix A1 of Pawlak does not show or disclose elements recited  
14 by Claim 30.



21 Therefore, the Applicant submits that the Pawlak reference fails to show or  
22 disclose software reminders of, first, a grace period, followed by, second, the onset  
23 of an enforcement period after which installation of the software update may not  
24 be postponed. Accordingly, the Applicant respectfully submits that Pawlak is  
25 deficient to support a Section 102 rejection of Claim 30, and the Applicant

1 respectfully requests that the rejection be withdrawn and the claim allowed to  
2 issue.

3 **Claims 31—33** depend from Claim 30 and are allowable due to their  
4 dependence from an allowable base claim. These claims are also allowable for  
5 their own recited features that, in combination with those recited in Claim 30, are  
6 not disclosed by reference of record.

7 **Claim 29** recites a method for performing software updates, comprising:

- 8 • **assigning a service level to each user by which software updates  
will be performed;**
- 9 • displaying an icon configured to allow a user a choice between  
10 displaying software reminders and initiation of installation of the  
software updates;
- 11 • wherein the software reminders include information on grace periods  
12 within which installation of the software update may be postponed  
and information on the onset of enforcement periods after which  
13 installation of the software update may not be postponed; and
- 14 • providing a user interface to allow selection of a time to perform the  
15 installation of the software update and to allow selection of a time to  
reboot, **wherein the time selected is based in part on the assigned  
level of service.**

16 Claim 29 is allowable for at least the reasons Claim 30 is allowable, and the  
17 remarks from above are incorporated herein.

18 Additionally, Claim 29 has been amended, and is additionally allowable for  
19 the reasons discussed infra. In particular, Claim 29 recites, “assigning a service  
20 level to each user by which software updates will be performed”. Accordingly,  
21 Claim 29 is allowable for at least the reasons that Claim 1 is allowable, and the  
22 remarks from above are incorporated herein.

23 Moreover, Claim 29 recites that the time for performance of the updates is  
24 “based in part on the assigned level of service.” This is not shown or disclosed by  
25

1 the Pawlak reference, and the remarks with respect to Claim 1 are incorporated  
2 herein by reference.

3 Therefore, the Applicant submits that the Pawlak reference fails to show or  
4 disclose elements recited by Claim 29. Accordingly, the Applicant respectfully  
5 requests that the Section 102 rejection of Claim 29 be removed.

6

7 **Claim 40** recites a processor-readable medium comprising processor-  
8 executable instructions for performing software updates, the processor-executable  
instructions comprising instructions for:

9

- 10 • grouping a large number of software updates into a package;
- 11 • **configuring the package for differential enforcement**, wherein  
different computers are given different periods of time within which  
to perform a software update; and
- 12 • configuring the package for SMS consumption.

13 Claim 40 recites, “configuring the package for differential enforcement”.  
14 The Applicant submits that Pawlak discloses that users’ machines (i.e. client  
15 computers) are “pointed at” appropriate servers and their operation is controlled  
16 by installation modes set by administrators (see “AutoUpdate Configuration”  
17 section of Pawlak, page 4). Accordingly, Pawlak fails to disclose a package that is  
configured for differential enforcement. That is, Pawlak discloses enforcement by  
18 allowing administrators to control the server providing updates, and by controlling  
19 the client’s installation modes. However, Pawlak does not disclose that a package  
20 is configured in any way to control differential enforcement. At least because of  
21 these remarks, the Applicant respectfully requests that the Section 102 rejection be  
22 withdrawn.

23

24 The Patent Office points to the “AutoUpdate Configuration” section of  
25 Pawlak, at page 4. However, this section fails to teach package configuration.

1 Instead, the passage discusses operations from the client side, and does not address  
2 the server actions in configuring packages for transmission to a client.

3 Referring to the Server-Side Processes on page A1 of Pawlak, there is no  
4 disclosure of how a package could be configured for differential enforcement.  
5 The client side of the diagram shows that the Admin may defer installation;  
6 however, this is not based on package configuration.

7 Therefore, the Applicant submits that the Pawlak reference fails to show or  
8 disclose elements recited by Claim 40. Accordingly, the Applicant respectfully  
9 requests that the Section 102 rejection of Claim 40 be removed.

10 **Claims 41—43** depend from Claim 40 and are allowable due to their  
11 dependence from an allowable base claim. These claims are also allowable for  
12 their own recited features that, in combination with those recited in Claim 40, are  
13 not disclosed by reference of record.

14 **Claim 44** recites a method for performing software updates, comprising:

- 15 • forming a package with a plurality of software updates;
- 16 • **partitioning the package to divide trusted updates from un-**  
**trusted updates;**
- 17 • distributing the package to a plurality of clients; and
- 18 • installing appropriate software updates on each of the plurality of  
clients, **wherein the un-trusted software updates are installed**  
**only on clients within a test environment.**

20 Claim 44 recites, “partitioning the package to divide trusted updates from  
21 un-trusted updates” and “wherein the un-trusted software updates are installed  
22 only on clients within a test environment”. The Applicant submits that Pawlak is  
23 deficient to support the Section 102 rejection at least because Pawlak fails to show  
24

1 or disclose partitioning a package between trusted and un-trusted updates.  
2 Moreover, Pawlak fails to show or disclose the use of a test environment.

3 The Pawlak reference fails to disclose, “partitioning the package to divide  
4 trusted updates from un-trusted updates”. In fact, Pawlak is silent on the nature  
5 and construction of the package, and does not disclose any divisions of any kind.

6 The Patent Office refers to Pawlak at Appendix 5 and 6. In this location,  
7 various LAN and Internet scenarios are disclosed for delivering updates.  
8 However, the scenarios do not disclose the construction of any packages, and in  
9 particular does not disclose, “partitioning the package to divide trusted updates  
10 from un-trusted updates”. Accordingly, the Applicant respectfully submits that the  
11 Section 102 rejection should be withdrawn.

12 The Pawlak reference fails to disclose, “un-trusted software updates are  
13 installed only on clients within a test environment”. In fact, Pawlak does not  
14 disclose any type of “test environment”. The Patent Office points to Pawlak at  
15 sections A1—A3 and A4—A5. However, the Applicant respectfully submits that  
16 no disclosure of a test environment is disclosed. If the Patent Office intends to  
17 maintain this rejection, the Applicant respectfully requests that a more specific  
18 reference be made to the “test environment” of Pawlak.

19 In view of the above remarks, the Applicant submits that the Pawlak  
20 reference fails to show or disclose at least the two elements discussed above and  
21 recited by Claim 40. Accordingly, the Applicant respectfully requests that the  
22 Section 102 rejection of Claim 40 be removed.

1       **Claim 45** recites a processor-readable medium comprising processor-  
2 executable instructions for performing software updates, the processor-executable  
3 instructions comprising instructions for:

4       

- 5       • forming a package with a plurality of software updates;
- 6       • **partitioning the package to divide trusted updates from un-**  
**7       trusted updates;**
- 8       • distributing the package to a plurality of clients; and
- 9       • installing appropriate software updates on each of the plurality of  
10      clients, wherein the un-trusted software updates are installed only on  
11      clients **within a test environment.**

12      Claim 45 is allowable for at least the reasons that Claim 44 is allowable,  
13 and the remarks from above are incorporated herein by reference. However, due  
14 to the differences in the rejection between Claims 44 and 45, the Applicant  
15 provides additional remarks, below.

16      The Pawlak reference fails to disclose, “partitioning the package to divide  
17 trusted updates from un-trusted updates”. The Patent Office refers to Pawlak at  
18 Page 3 and Appendix 1—3. In this location, the SUS (software update service)  
19 and the AU (automatic update) are discussed. However, these utilities do not  
20 disclose the construction of any packages, and in particular does not disclose,  
21 “partitioning the package to *divide trusted updates from un-trusted updates*”. If  
22 the Patent Office intends to maintain this rejection, the Applicant respectfully  
23 requests that a more specific reference to a location in Pawlak regarding the  
24 disclosure of partitioning of trusted and un-trusted updates. Without such  
25 clarification, the Applicant respectfully submits that the Section 102 rejection  
should be withdrawn.

26      The Pawlak reference fails to disclose, “un-trusted software updates are  
27 installed only on clients within a test environment”. In fact, Pawlak does not  
28 disclose any type of “test environment”. The Patent Office points to Pawlak at  
29

1 sections A1—A3 and A4—A5. However, the Applicant respectfully submits that  
2 no disclosure of a test environment is disclosed. If the Patent Office intends to  
3 maintain this rejection, the Applicant respectfully requests that a more specific  
4 reference be made to the “test environment” of Pawlak. Accordingly, the  
5 Applicant respectfully submits that the Section 102 rejection should be withdrawn.

6 In view of the above remarks, the Applicant submits that the Pawlak  
7 reference fails to show or disclose at least the two elements discussed above and  
8 recited by Claim 45. Accordingly, the Applicant respectfully requests that the  
9 Section 102 rejection of Claim 45 be removed.

10 **Claims 46—48** depend from Claim 45 and are allowable due to their  
11 dependence from an allowable base claim. These claims are also allowable for  
12 their own recited features that, in combination with those recited in Claim 45, are  
13 not disclosed by reference of record.

14 **Claim 49** recites a method for performing software updates, comprising:

15 • using a reference computer to generate a template having an  
16 authorization list of approved updates;  
17 • deploying the template to client computers; and  
18 • performing software updates on the client computers according to  
19 the template.

20 Claim 49 recites use of “a reference computer to generate a template”. The  
21 Applicant submits that Pawlak fails to disclose use of “a reference computer” and  
22 fails to disclose construction and/or use of “a template” in performing a software  
23 update. Accordingly, the Applicant respectfully requests that the Section 102  
24 rejection be withdrawn.

1 The Patent Office points to Pawlak at Appendix A1. However, at  
2 Appendix A1 Pawlak discloses that the “Admin reviews” and “Admin approves  
3 new packages”. Additionally, Pawlak at A1 discloses that the AU agents on the  
4 client run a daily check and download that which has been approved. These  
5 disclosures by Pawlak do not indicate that a temple is created, and do not disclose  
6 a “reference computer”.

7 In view of the above remarks, the Applicant submits that the Pawlak  
8 reference fails to show or disclose at least the two elements discussed above and  
9 recited by Claim 49. Accordingly, the Applicant respectfully requests that the  
10 Section 102 rejection of Claim 49 be removed.

11 **Claim 50** is allowable for at least the reasons that Claim 49 is allowable.  
12 Accordingly, the Applicant incorporates the remarks from above at this location.  
13 The Patent Office has rejected Claim 50 using slightly different sections of  
14 Pawlak. The Applicant will address these issues below.

15 The Patent Office additionally points to the SUS server of page 3. Without  
16 a better understanding of the Office’s thinking, the Applicant assumes that the  
17 Office points to the “approval logs” disclosed in approximately line 17 of page 3.  
18 However, nothing in Pawlak discloses that the “approval logs” are a template  
19 deployed to client computers. Without any indication of “deploying the template  
20 to client computers” the Applicant respectfully submits that Pawlak is deficient to  
21 support the Section 102 rejection of Claim 50. The Applicant respectfully  
22 requests that the rejection be withdrawn.

23 **Claims 51—53** depend from Claim 50 and are allowable as depending  
24 from an allowable base claim, as well as for their recitation of elements not seen in  
25

1 the prior art of record. These claims are also allowable for their own recited  
2 features that, in combination with those recited in Claim 50, are neither taught nor  
3 suggested in references of record, either singly or in combination with one  
4 another.

5  
6 Claims 34—39 were rejected under §102 as being anticipated by IBM,  
7 “RS/6000 ATM Cookbook,” hereinafter “IBM.” In response, the Applicant  
8 respectfully traverses the rejection.

9 **Claim 34** recites a method for performing software updates, comprising:

10

- 11 • associating servers into groups sized to allow simultaneous updating  
of servers in each group without disrupting work flow;
- 12 • **establishing a change window for each of the groups;** and
- 13 • applying updates within the change window, while monitoring a  
failsafe timeout for each update.

14 Claim 34 recites, “establishing a change window for each of the groups”.  
15 The Applicant submits that the IBM reference is deficient to support the Section  
16 102 rejection at least because IBM fails to show or disclose establishing such a  
17 window.

18 Referring to the Applicant’s specification and drawings at FIG. 17 and  
19 paragraph [0085], and other locations, the Applicant teaches that a “change  
20 window” is the specific time period during which each subgroup of servers may be  
21 taken down for update installation in a given time period. Establishing the change  
22 window helps to regulate the update process.

23 Referring to the IBM reference at pages 21 (FIG. 11) and page 248, the  
24 Applicant submits that IBM does not show or disclose a change window for any  
25

1 group of updates. FIG. 11 on page 21 discloses the capabilities and adapters  
2 (along the left side of the graph) associated with different operating systems (along  
3 the top of the graph). The Applicant submits that a change window is not  
4 discussed. Similarly, referring to page 248, a variety of subjects, such as token  
5 rings, TCP/IP and commands with parameters are discussed. However, a change  
6 window is not discussed.

7 Therefore, the Applicant submits that the IBM reference fails to show or  
8 disclose elements recited by Claim 34. Accordingly, the Applicant respectfully  
9 requests that the Section 102 rejection of Claim 34 be removed.

10 **Claim 35** is allowable for at least the reasons that Claim 34 is allowable.

11 **Claims 36—38** depend from Claim 35 and are allowable due to their  
12 dependence from an allowable base claim. These claims are also allowable for  
13 their own recited features that, in combination with those recited in Claim 35, are  
14 not disclosed by reference of record.

15 **Claim 39** recites a method for performing software updates, comprising:

16

- 17 • grouping a large number of software updates into a package;
- 18 • **configuring the package for differential enforcement, wherein**  
**different computers are given different periods of time within**  
**which to perform a software update;** and
- 19 • configuring the package for SMS consumption.

20 **Claim 39** recites, “configuring the package for differential enforcement,  
21 wherein different computers are given different periods of time within which to  
22 perform a software update”. The Applicant submits that the IBM reference is  
23 deficient to support the Section 102 rejection at least because IBM fails to show or  
24 disclose differential enforcement.

1 Referring to the Applicant's specification at FIG. 18 and paragraph [0093]  
2 of, and other locations, the Applicant teaches aspects of "differential  
3 enforcement." In one example of what "differential enforcement" can include, an  
4 XML document may recite rules using Boolean operators or other means which  
5 result in application of the correct update(s) to each client.

6 Referring to the IBM reference at pages 141 and onward, the Applicant  
7 submits that IBM does not show or disclose differential enforcement. The passage  
8 in IBM cited by the Patent Office appears to be related to networking, including a  
9 discussion of LAN emulation and similar topics. The Applicant would appreciate  
10 clarification on how IBM relates to "differential enforcement."

11 Therefore, the Applicant submits that the IBM reference fails to show or  
12 disclose elements recited by Claim 39. Accordingly, the Applicant respectfully  
13 requests that the Section 102 rejection of Claim 39 be removed.

14 **Traversal of the §103 Rejections**

15 Claim 1 stands rejected under 35 U.S.C. §103(a) as being unpatentable  
16 based on text from a Patent Office computer related to Daylight Savings Time  
17 sync up, hereinafter "Sync Up Text". The Applicant respectfully traverses the  
18 rejection.

19 The Sync Up Text shows instructions for the user to leave a workstation in  
20 the 'logged on and locked condition' for the sync up. However, the Sync Up Text  
21 does not teach or suggest "assigning a level of service" or "scheduling  
22 performance ... according to the level of service". In fact, it appears that all  
23 Patent Office employees are set at the same level of service, i.e. that they *all* must  
24 leave their computer locked/on for sync up.

If this rejection is to be maintained, the Applicant respectfully requests clarification on how the Sync Up Text teaches "assigning a level of service". The Applicant submits that no assignment of a level of service is taught, since it appears that all Patent Office employees' computers are treated equally. Accordingly, there is no assignment of a level of service.

Therefore, the Applicant submits that the Sync Up Text fails to show or disclose elements recited by Claim 1. Accordingly, the Applicant respectfully requests that the Section 103 rejection of Claim 1 be removed.

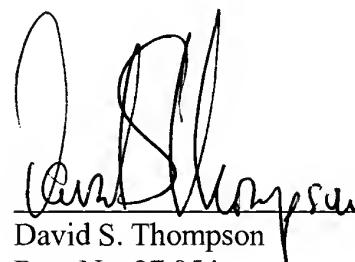
**Conclusion**

The Applicant submits that all of the claims are in condition for allowance and respectfully requests that a Notice of Allowability be issued. If the Office's next anticipated action is not the issuance of a Notice of Allowability, the Applicant respectfully requests that the undersigned attorney be contacted for the purpose of scheduling an interview.

Respectfully Submitted,

Dated: 9-14-07

By:



\_\_\_\_\_  
David S. Thompson  
Reg. No. 37,954  
Attorney for Applicant

LEE & HAYES PLLC  
Suite 500  
421 W. Riverside Avenue  
Spokane, Washington 99201

Telephone: 509-324-9256 x235  
Facsimile: (509) 323-8979